

Joshua B. Cooley, Esquire
Ehrhardt, Elsner, and Cooley
215 Fidalgo Ave., Suite 201
Kenai, Alaska 99611
Phone: (907) 283-2876
Fax: (907) 283-2896
Email: josh@907legal.com
Attorney for Hilda Mark

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA AT ANCHORAGE

| | | |
|----------------|---|----------------|
| HILDA MARK, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | |
| |) | |
| SAFEWAY, INC., |) | |
| |) | |
| Defendant. |) | Case No. _____ |
| _____ |) | |

COMPLAINT

COMES NOW Plaintiff HILDA MARK, by and through undersigned counsel, Joshua Cooley, Ehrhardt, Elsner, and Cooley, and for her cause of action lodges this Complaint against Defendant, SAFEWAY, INC., and alleges on information and belief:

GENERAL ALLEGATIONS

1. Plaintiff HILDA MARK was and is a resident of the Third Judicial District, residing in Anchorage, Alaska.

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2. The event which is the subject of this Complaint occurred within the premises of the Safeway Grocery Store located at 5600 Debarr Rd., Ste. 100, Anchorage, Alaska, 99501 in the Third Judicial District.

3. Defendant SAFEWAY, INC., owns, operates, maintains, and otherwise controls the premises of the Safeway Grocery Store, which is open to the public.

4. Defendant SAFEWAY, INC., is a Delaware corporation, doing business in the State of Alaska.

5. Defendant SAFEWAY, INC., is wholly owned by Albertsons Companies, Inc.

6. This action is brought pursuant to the Court's diversity jurisdiction 28 U.S.C § 1332. Damages exceed \$75,000.00.

NEGLIGENCE

7. On March 7, 2021, Plaintiff HILDA MARK was a patron at Defendant SAFEWAY, INC.'s grocery store premises.

8. On the above date, Plaintiff HILDA MARK went to Defendant SAFEWAY, INC.'s grocery store premises to purchase groceries and to fill a prescription.

9. On information and belief, a Defendant SAFEWAY, INC., employee placed a stocking cart behind Plaintiff HILDA MARK while she was engaged with another Defendant SAFEWAY, INC., employee in the bakery department.

10. The cart was left unattended on the floor of the bakery department.

11. Plaintiff HILDA MARK was not alerted to the presence of the cart behind her.

12. Plaintiff HILDA MARK turned from her engagement with the Defendant SAFEWAY, INC., bakery employee and, although she was using due care and caution, she stumbled over the errant cart and fell to the floor.

13. Plaintiff HILDA MARK suffered injury to her knee, to include a torn anterior cruciate ligament, in the fall.

14. Defendant SAFEWAY, INC., and its employees knew or should have known of the danger the unattended and unwarned cart posed to shoppers, guests, and invitees.

15. Despite knowledge or reason to know, and despite their duty to exercise care on behalf of guests and invitees, Defendant SAFEWAY, INC., failed to take any measures to remove the cart, warn customers of the cart's placement in the lane of travel, or take other preventative measures to ensure the cart did not pose a threat.

16. In the absence of such preventative measures to remedy or prevent the dangerous condition, accidents and injuries such as those suffered by Plaintiff HILDA MARK were foreseeable by Defendant SAFEWAY, INC.

16. At all times relevant, Defendant SAFEWAY, INC, by and through its agents or employees, owed a non-delegable duty to persons, such as HILDA MARK to:

- a) Not create a dangerous condition;
- b) Correct the dangerous condition that defendant knew or should have known existed;

- c) Protect Plaintiff HILDA MARK from foreseeable risks;
- d) Use reasonable care in maintaining the premises in a reasonably safe condition, and not place tripping hazards behind Plaintiff HILDA MARK;
- e) Make reasonable inspections and have procedures in place that would warn patrons, like Plaintiff HILDA MARK, of the dangerous condition created by the errant cart;
- f) Hire competent individuals to properly inspect and supervise the premises;
- k) Properly train and supervise employees and/or agents in the proper method of moving, placing, and storing carts.

18. This breach of duty was negligent, and a substantial factor in causing the injuries, harms and losses set forth more fully herein below.

19. As a direct result of the negligence of Defendant SAFEWAY, INC., Plaintiff HILDA MARK, sustained injuries requiring medical care.

20. Plaintiff HILDA MARK has sustained losses and harms including physical injury; emotional injury; past and future economic losses; past and future medical specials; plus general damages for loss of quality of life, pain, suffering, emotional distress and anxiety and other related injuries.

21. As a direct result of Defendant SAFEWAY, INC.'s negligence, Plaintiff HILDA MARK has sustained general and special damages within the jurisdictional limits of this court, the exact amounts to be proven at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff HILDA MARK requests that judgment be entered against Defendant SAFEWAY, INC., as follows:

1. General damages within the jurisdictional limits of this Court and according to proof at the time of trial;
2. Special damages within the jurisdictional limits of this Court and according to proof at the time of trial;
3. For pre-judgment and post-judgment interest as provided by law;
4. For attorneys' fees and costs as provided by law; and

For such other and further relief as the court may deem just and equitable.

DATED: Monday, September 27, 2021.

Joshua B. Cooley
Ehrhardt, Elsner, and Cooley
Attorney for: Hilda Mark

By: _____

For Joshua B. Cooley, 1409065